

REMARKS

Claims 28-30, 32-52, and 54-59 are currently pending in the present application; and Claims 28-30, 32, 33, 38, 44, 56 and 59 are under consideration. Applicants respectfully request reconsideration of the pending claims in light of the following remarks.

The Examiner has rejected Claims 28-30, 32, 33, 38, 44, 56 and 59 under 35 USC §103(a) as allegedly unpatentable over U.S. Patent No. 6,261,097 to Schmutz et al. (hereinafter “Schmutz”) in view of U.S. Patent No. 6,360,883 to Haq et al. (hereinafter “Haq”) and further in view of U.S. Patent No. 3,999,434 to Yen (hereinafter “Yen”). Applicants respectfully submit that the above rejection is overcome in light of the following remarks.

Obviousness requires a suggestion of all the elements in a claim (*CFMT, Inc. v. Yieldup Int’l Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003)) and a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does (*KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007)).

Applicants respectfully submit that there is no reason that would have prompted a person of ordinary skill in the relevant field to modify the teaching of Schmutz, Haq and Yen to arrive at the invention as claimed in Claims 28-30, 32, 33, 38, 44, 56 and 59.

Independent Claim 28 recites a package for preserving a dental implant. The package includes, *inter alia*, an external capsule, a cap sealingly engaging the external capsule, and an ampoule for holding the dental implant. The package further includes a means to releasably connect to the ampoule, such that the means and the ampoule remain connected after removing the cap and the ampoule from the external capsule. The means includes an actuation knob adapted to cause separation of the ampoule from the means when actuated in the axial direction of the ampoule.

Schmutz discloses a standard prior art container for a dental implant. As shown in Fig. 5, the container includes an external capsule (300), a cap (320) and an ampoule (200) which holds a dental implant (1). As acknowledged by the Examiner, Schmutz does not disclose any means of releasably connecting to the ampoule which can be disconnected by means of an actuation knob. Instead, in order to release the ampoule from the capsule, the ampoule is simply tipped out of the capsule after removal of the cap (see Fig. 8C and Col 10, Lines 20-22 of Schmutz).

Haq discloses a container for contact lenses, which includes an outer container (12) closed via a screw cap (26). Positioned within the container is a removable insert (14) which contains the contact lens. The combination of the outer container and the removable insert is attached, at one end thereof, to an elastomeric seal (28). The insert is made from a material that is sufficiently thin and flexible, so that the lens can be handled through the walls of the insert. By means of this configuration, a user is able to grasp and thus retain the lens while the insert is opened, and further directly hold and remove the lens from the package through forceps placed into the insert.

The Haq system is designed to solve a problem specific and inherent to contact lenses. Specifically, these transparent, thin, flexible discs are stored freely in a liquid medium. Thus, it would be difficult to locate and remove them from the packaging. The use of a flexible insert allows the user to locate and retain the lens from the outside of the lens-holder, which in turn increases the ease with which a user can remove the lens. Specifically, Haq teaches, at Col. 1, Lines 55 to 59, “[i]n a typical embodiment, the user need merely to remove the enclosure means carrying the elastomeric nipple, grasp the artificial lens through the walls of the nipple,

and extracting the artificial lens from the nipple, using a forceps or other suitable tool” (emphasis added).

The insert is attached to an elastomeric stopper and can be opened or closed by inserting or removing this stopper (which is attached by a force fit) (see Col. 3, Line 67 to Col. 4, Line 3: “The removable insert 14 is attached to the elastomeric seal 28 and the seal 28 is firmly retained across the opening 30 of the container 12 by the container cap 26.”). Otherwise, the elastomeric stopper can be opened via a slit (24) in the insert wall (see Figs. 8 and 9 and Col. 3, Lines 8 to 15).

Thus, contrary to the Examiner’s assertion as indicated on Page 6, Lines 1-3 of the Official Action regarding the teaching of Haq, Haq does not teach a threaded connection between the insert and the stopper. As clearly shown in Fig. 7 of Haq, the teeth at the top of the insert are simply used to create a better grip on the projection member (32) of the stopper.

Further, the alleged “connection” between the cap and ampoule of Schmutz, as shown on Page 3 of the Official Action is simply a point of contact between the two components, which prevents the ampoule from moving around in the capsule during transport and storage.

Therefore, a person of ordinary skill in the art would not have been prompted to modify the dental implant container of Schmutz with the contact lens container of Haq, particularly in light of the fact that the contact point or area of Schmutz is intended to axially hold the ampoule in the capsule rather than clamping the cap to the ampoule so that the ampoule can be removed simultaneously with the cap.

When evaluating claims for obviousness, “the prior art as a whole must be considered. The teachings are to be viewed as they would have been viewed by one of ordinary skill.” *In re Hedges*, 783 F.2d 1038, 1041 (Fed. Cir. 1986). As discussed above, the underlying

purpose of Haq is to enable extraction of a free floating, thin object. In contrast, the dental implant of Schmutz is a solid device that is fixedly held in the ampoule by a holding piece. Unlike the contact lens of Haq, the dental implant cannot move freely within the ampoule and consequently is easily visible. Thus, when the skilled person reads the teaching of Haq as a whole, the person would not have considered combining the disclosure of Haq to the disclosure of Schmutz, because Schmutz and Haq solve different problems.

Furthermore, the main purpose of the ampoule of Schmutz is to protect the surface of the implant from damage through impact and/or contact with other surfaces. Thus, the skilled person would not have considered changing the construction of the ampoule in line with the removable insert of Haq, as the thin and flexible cover does not provide adequate protection to the dental implant.

The stopper of Haq is required to prevent the contact lens from falling out as well as provide some structural support to the insert and assist with the removal of the thin-walled insert from the container. For the Schmutz ampoule which is rigid and sturdy, there is no desire or motivation to provide a means that is removably connected to the ampoule. Further, nowhere does Haq suggest to the skilled person that such a system would be of any benefit if incorporated into the Schmutz packaging. In fact, Applicants respectfully submit that the rigid structure of the Schmutz ampoule and the thin and flexible structure of the Haq insert teach away from the combination of Haq and Schmutz.

In addition, Schmutz acknowledges the possibility of connecting the implant to the cap of the container as prior art (see Col. 1, Line 55 - Col. 2, Line 8 of Schmutz), in which the cap functions as a screwing-in tool for the dental implant. In this regard, Haq fails to provide any teaching, suggestion, motivation or reasoning, which would have prompted the skilled person to

deviate from the known forms of dental implant carrier. Further, although Haq discloses a means for removably connecting to an ampoule, there is no disclosure of an axially displaceable actuation knob, which can release the means from the ampoule. Instead, the insert either remains attached to the stopper or is pulled off to allow access to the lens.

The Examiner has relied on Yen for the alleged teaching of the above feature.

Yen discloses a temperature probe (21) fixedly attached to a housing (11). A protective sheath (12) is removably attached to the housing such that it surrounds the probe. The sheath is intended to prevent direct contact between the probe and a patient, and, accordingly, prevent contamination between patients. The sheath is not intended to provide any structural protection to the probe. Thus, the sheath is thin and/or metallic, in order to enable good heat transmission to the probe. Once the temperature probe has been used, the sheath can be released and discarded by pushing a cap (36). A new and clean sheath is connected to the holder prior to a further use.

Thus, Yen discloses using an axially displaceable actuation knob to discard a used cover. The device itself (i.e., the probe) remains fixed to the housing. Accordingly, the actuation knob of Yen is not used as a part of a delivery system. Specifically, the actuation knob of Yen is intrinsically coupled to a spring, for which reason the discarding operation of the probe cover would result in an uncontrollable ejection motion. In addition, in order to function properly, the spring is indispensable for the connection of the cover, for which reason the skilled person would not have considered using the knob and the spring separately.

Yen discloses using an actuation knob to dispose of a used, non-sterile covering. Yen is silent on using the actuation knob to release the probe or as a means of maintaining the sterility of the discarded object.

There is no teaching, suggestion, motivation or reasoning in the prior art to modify the insert and stopper of Haq to include such an actuation knob, because, in Haq, the user must manually handle the insert in order to grasp the lens. In addition, the thin and flexible nature of the insert makes such an actuation system difficult to achieve with respect to the insert.

Furthermore, there is no teaching, suggestion, motivation or reasoning in the prior art to combine the actuation knob of Yen to the packaging of Schmutz. Specifically, the ampoule of Schmutz is sterile and contains the dental implant. Thus, the skilled person would not have combined the disclosure of Yen, which is related to a disposal method, to the disclosure of Schmutz. In fact, none of Schmutz, Haq and Yen addresses the problem of the present invention, namely the “hands free” delivery of a sterile product.

In summary, Applicants respectfully submit that Claim 28 is patentably distinguished over the hypothetical combination of Schmutz, Haq and Yen. In addition, Applicants respectfully submit that it is improper to ignore Schmutz, Haq and Yen’s own guidance on the constituent elements of a container, and doing so is highly suggestive of hindsight reasoning by the Examiner.

Applicants respectfully submit that Claims 29, 30, 32, 33, 38, 44, 56 and 59 are patentably distinguished over Schmutz, Haq and Yen at least by virtue of their dependency from Claim 1. Applicants further respectfully submit that Claim 32 is additionally patentable over Schmutz, Haq and Yen based on the following reason.

The Examiner has alleged that Schmutz teaches the features recited in Claim 32 (see Page 7, Paragraph 3 of the Official Action).

However, Fig. 5 of Schmutz shows a threaded connection between the cap and the external capsule. The Examiner has labeled a downward extension of the cap which, in use,

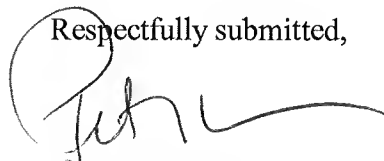
protrudes between the external capsule and the ampoule and which engages a groove of the ampoule (see the Examiner's annotation of Fig. 5 of Schmutz shown on Page 3 of the Official Action).

However, it seems to Applicants that the Examiner has simply labeled the wall of the exterior capsule as a downward extension. The cap (320) of Schmutz is shaded with cross-hatching that slopes downwardly from left to right. It is apparent that the cap does not include a downward extension that protrudes between the capsule (shaded with upwardly sloping cross-hatching) and the ampoule. It is worth noting that those elements designated by reference numerals 220 and 223 form a part of the ampoule, as can be seen from Figs. 4A. Further, the ampoule does not include a groove, with which any such a protrusion could engage. The groove labeled by the Examiner is an annular groove in the cap and not a groove of the ampoule.

Therefore, contrary to the Examiner's assertion, the features of Claim 32 are not disclosed by Schmutz.

In view of the foregoing amendments and remarks, it is firmly believed that the subject application is in condition for allowance, which action is earnestly solicited.

Respectfully submitted,



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